

From: Mike Schiller
To: Microsoft ATR
Date: 1/23/02 9:21pm
Subject: Microsoft Settlement

I would like to take issue with the proposed Microsoft Settlement on three points.

1. I am an embedded programmer. What that means is that I write code for microprocessors that control many of the electronic devices used in every day life. For example, embedded programmers are responsible for writing software that makes your TV, car, microwave, etc. work and perform properly. The last few years have seen the introduction of many 'real time operating systems' for embedded devices. These operating systems include proprietary operating systems such as QNX, VxWorks, and ThreadX. They also include open source operating systems such as uCLinux, eCos, and Red Hat Embedded Linux. The introduction of these operating systems, the competition between operating system vendors, and the availability of open source code add-ons for all of the operating systems has allowed embedded programmers to continually improve the performance and features of the products they create, decrease the time to market of such products, and reduced the cost of such products.

The proposed settlement threatens the health of the embedded programming market. The threat results from three elements of the proposed settlement. First, the definition of "Windows Operating System Product" is limited (under Definition U) to include "software code (as opposed to source code) distributed commercially by Microsoft for use with Personal Computers [such] as Windows 2000 Professional, Windows XP Home, Windows XP Professional, and successors to the foregoing, including the Personal Computer versions of the products currently code named "Longhorn" and "Blackcomb" and their successors." It makes no mention of Embedded Windows Operating Systems such as Windows XP Embedded, Windows CE, and Windows XP Tablet PC Edition. Second, "Communications Protocol" is defined as a set of rules for information exchange to accomplish predefined tasks between a Windows Operating System Product and a server operating system product" (under Definition B). It makes no mention of the interfaces between different "Windows Operating Systems." Third, Definition Q can be read to mean servers are not personal computers and personal computers are not servers. Thus, as embedded Windows is not mentioned, Windows desktop machines are not servers, and Microsoft communication protocols are defined to include only desktop-server relationships, it seems that Microsoft will not be required to release documentation regarding the interface and communication protocols between Embedded Windows Operating Systems, and desktop Windows Operating Systems (or even for those protocols used to communicate between Desktop Windows Operating Systems). Since desktop computer interoperability is a desired feature of many embedded operating system products, the introduction of closed interfaces between the embedded and desktop versions of Windows will allow Microsoft to use its monopoly power in the desktop market to unfairly leverage its position in the embedded operating system market. Additionally, the settlement will not require Microsoft to release communications protocols between Desktop Windows Operating Systems. This will allow Microsoft to continue to deter competition in the desktop market by discouraging the development and sale of different and interoperable desktop operating systems.

2. The second point that I wish to take issue with is the "Appointment of a Microsoft Internal Compliance Officer." The settlement states: "Microsoft shall designate, within 30 days of entry of this Final Judgment, an internal Compliance Officer who shall be an employee of Microsoft with responsibility for administering Microsoft's antitrust compliance program and helping to ensure compliance with this Final Judgment." As the paycheck of any employee of any corporation is dependent on the income of that corporation, and as violations of this settlement could lead to higher Microsoft profits, it is unreasonable

to expect an employee of Microsoft to be able to perform this task without being subjected to a conflict of interest.

3. The third point that I question is the line of the settlement that states that Microsoft may determine what entities meet "reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business." With the uncertainty inherent in a free market economy, only the market itself can determine which business models are viable. Thus, it is unreasonable to expect that Microsoft is capable of defining any standard, reasonable or unreasonable, objective or subjective, that is capable of determining with any precision or accuracy the viability of a business. Additionally, this would preclude academic institutions entirely, as such entities are not businesses.

I hope that these points are taken into consideration, and that the proposed settlement will not be accepted.

Sincerely,
Mike Schiller